



## City of Newburgh Council Work Session

6:00 pm  
March 10, 2011

### AGENDA

1. Procedural Items related to the City Council meeting on March 14, 2011
  - a. Minutes of the meeting of February 28, 2011 (not available yet)
  - b. Departmental Reports for the month of February
  - c. Claims and Summonses
2. Grants/Contracts/Agreements/Settlements:
  - a. (Res. 50) Acceptance of grant from the US Department of Justice for the Project Safe Neighborhood program in the amount of \$34,401.00 with no matching funds required.
  - b. (Res. 51) Authorization of a memorandum of understanding with NY State for the Federal Excess Property program to obtain surplus police equipment formerly belonging to the Federal Department of Defense.
  - c. Armory Agreement – amend Jan. 10 resolution
3. Discussion Items:
  - a. Back Water Pump Project
  - b. Water Tank Project
4. Planning and Development/Community Development/Real Estate
  - a. Section 3 Plan
  - b. CDBG Request for Proposals Process – Courtney Kain
  - c. Land Bank – council member appointment to the board
5. Finance Department:
  - a. (Res. 52) Acceptance of donations and establishment of a trust-in-agency account for the Memorial Day Parade.
  - b. (Res. 53) Amending Resolution No. 264-2010, the amended 2011 Budget for the City of Newburgh, New York by the establishment of an Animal Control fund for dog licensing.
  - c. First Installment Tax Collection Report
  - d. Tax and Fee Collection Policies
  - e. On-line payments
  - f. Tax collection percentage/expected amount of first installment
  - g. Review of open grants

6. Executive Session:

- a. Settlement of Litigation
- b. Sale or purchase of property

RESOLUTION NO.: 50 - 2011

OF

MARCH 14, 2011

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT  
GRANT #2010-GP-BX-0074 FROM THE UNITED STATES DEPARTMENT OF JUSTICE  
FOR THE PROJECT SAFE NEIGHBORHOOD (PSN) 2010 PROGRAM  
FOR A TOTAL GRANT AMOUNT OF \$34,401.00  
WITH NO CITY MATCH REQUIRED, AND IN FURTHERANCE THERETO,  
AMENDING THE GRANT FUND OF THE CITY OF NEWBURGH

WHEREAS, the United States Department of Justice has offered a grant under its Project Safe Neighborhood (PSN) 2010 Program to provide funds to implement additional police enforcement to target street level activity during days and times of highest frequency of violent crime, firearm related activity and gang activity and support the use of rental vehicles to be used for surveillance and investigative purposes; and

WHEREAS, the City of Newburgh applied for such grant and were notified that they have been awarded a total grant amount of \$34,401.00; and

WHEREAS, no City match of dollars or in-kind services is required; and

WHEREAS, this Council has determined that accepting such grant is in the best interests of the City of Newburgh and its residents;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute any and all documentation required to accept the Grant; and

BE IT FURTHER RESOLVED, this Council hereby amends the City of Newburgh's Grant Fund as follows, in furtherance of acceptance of the Grant:

Revenue:

CG.3120.4321.3000.2010	\$34,401
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Expenses:

CG.3120.0130.3000.2010	Overtime	\$20,001
CG.3120.0444.3000.2010	Rental	\$14,400

CENTER

FOR

COURT

INNOVATION

A Project of the Fund for the City of New York

Midtown Community Court | Red Hook Community Justice Center | Brooklyn Treatment Court | Brooklyn Domestic Violence Court | Staten Island Youth Justice Center | Manhattan Family Treatment Court | Youth Court | Crown Heights Community Mediation Center | Harlem Community Justice Center | Harlem Parole Reentry Court | Brooklyn Mental Health Court | Attendance Court | Bronx Child Witness Program | Integrated Domestic Violence Court | Youth Justice Board | Bronx Community Solutions | Queens Engagement Strategies for Teens | NYC Community Cleanup | Westchester Court Educational Initiative | Newark Community Justice Center | Upstate Office, Syracuse

Greg Berman, director

520 Eighth Avenue New York, New York 10018 646.386.3100 fax 212.397.0985 www.courtinnovation.org

September 29, 2010

*Michael Ferrara*

Eric Paolilli

Chief of Police

Newburgh Police Department

55 Broadway

Newburgh, NY 12550

Dear Mr. Paolilli,

It is my pleasure to confirm the appointment of the City of Newburgh Police Department ("NPD"), 55 Broadway, Newburgh, NY 12550, as subcontractor to the Center for Court Innovation ("Center"), a project of the Fund for the City of New York, ("Fund"), 121 Sixth Avenue, New York, NY 10013 in connection with the U.S. Attorney's Office, New York Southern District ("USAO, SDNY") Project Safe Neighborhoods Initiative. These services are supported by grant #2010-GP-BX-0074 from the U.S. Department of Justice, Bureau of Justice Assistance, CFDA #16.609 a copy of which is attached as Appendix A and made a part of this agreement. The USAO, SDNY proposal for the 2010 Project Safe Neighborhoods Initiative is attached as Appendix D and made a part of this agreement.

#### **I. Services & Deliverables**

NPD will use PSN funding to support the implementation of two-officer interdiction teams in an overtime capacity to target street level activity during days and times of highest frequency of violent crime, firearm related activity, and gang activity. These services will be provided in accordance with NPD's Project Safe Neighborhoods proposal, attached as Appendix D-1 and made a part of this agreement.

#### **II. Reporting**

In accordance with Office of Justice Programs requirements, on a semi-annual basis for the periods January through June and July through December, NPD shall submit progress reports no later than fifteen (15) days following the end of each six (6) month period describing the performance of activities and the accomplishment of objectives as set forth in the approved award application. Each of the following questions below must be addressed in each progress report.

Responses to questions #1 through #7 should be limited to two paragraphs.

1. What were your accomplishments within this reporting period?
2. What goals were accomplished, as they relate to your grant application?
3. What problems/barriers did you encounter, if any, within the reporting period that prevented you from reaching your goals or milestones?
4. Is there any assistance that BJA can provide to address any problems/barriers identified in question #3 above? (Please answer YES or NO only.)
5. Are you on track to fiscally and programmatically complete your program as outlined in your grant application? (Please answer YES or NO. If no, please explain.)
6. What major activities are planned for the next 6 months?
7. Based on your knowledge of the criminal justice field, are there any innovative programs/accomplishments that you would like to share with BJA?

Responses to questions #8 through #16 should be limited to a numeric value only. If a metric does not apply, please enter a 0 (zero) value.

8. Number of homicides with a firearm experienced during the current reporting period within the targeted PSN site.
9. Combined number of homicides, aggravated assaults, and robberies that are committed with a firearm during the current reporting period within the targeted PSN site.
10. The total number of gang-related homicides that occurred during the current reporting period.
11. The total number of gang-related aggravated assaults that occurred during the current reporting period.
12. The total number of gang-related robberies that occurred during the current reporting period.
13. The total number (gang-related and non-gang-related) of homicides, aggravated assaults, and robberies that occurred during the current reporting period.
14. Total number of youth participating in the program during the current reporting period.
15. Number of youth that completed the program during the current reporting period.
16. Number of youth that exited the program during the current reporting period without completing the program.

All reports must be submitted to both (1) Alexi Mantsios at the USAO, SDNY 1 St. Andrew's Plaza, New York NY 10007 and (2) Amy Levitt at the Center for Court Innovation, 520 Eighth Avenue, 18<sup>th</sup> Fl., New York NY 10018.

### **III. Supervision & Review**

As a subcontractor, NPD shall work under the direction and supervision of Elizabeth Maringer, Assistant United States Attorney, Community Projects Coordinator USAO, SDNY. All work completed by NPD under this Subcontract shall be subject to monitoring and review by the USAO, SDNY and the Fund.

### **IV. Professional Personnel**

All personnel assigned by NPD, including officials, subcontractors, agents and volunteers, to

the work under this Agreement shall be professionally qualified for the assignment to be undertaken.

Eric Paolilli, Chief of Police, Newburgh Police Department will be considered "Key Personnel" during the period of performance of this Agreement. NPD and the Fund agree that the replacement of Key Personnel assigned to the Project must be approved in advance by the Fund.

#### **V. Compensation**

The Fund will pay NPD a fee of up to \$34,401 for its services based on the Budget attached as Appendix B and made a part of this agreement. The foregoing fee shall constitute NPD's entire compensation under this Agreement. For the duration of the Agreement, NPD shall submit quarterly invoices, no later than fifteen (15) days after the end of each calendar quarter, for the work performed detailing the approved actual costs for which compensation is payable.

A sample Invoice/Expense form is attached as Appendix E. Invoices are due no later than thirty (30) days following the end of each calendar quarter. However, the quarterly invoice for work performed or completed in the period ending September 30 must be submitted no later than October 10th. Upon review and approval, invoices will be payable under Net 30 day terms. Invoices will not be approved without the submission of completed statistical and progress reports for the period. Invoices must be mailed to the Center for Court Innovation, 520 Eighth Avenue, 18<sup>th</sup> Fl., New York NY 10018.

#### **VI. Terms and Termination**

NPD's engagement shall begin on October 1, 2010 and shall terminate on September 30, 2011 unless it is terminated at an earlier date by written notice to NPD from the Fund. In the event of such termination, NPD shall immediately cease the provision of all services, and the Fund shall be liable to NPD only for the service actually performed by NPD up to and including the effective date of such termination.

#### **VII. Independent Contractor**

It is agreed that NPD's status hereunder is that of an independent contractor and that no employee of NPD is an employee of the Fund. NPD alone is responsible for the work, compensation and personal conduct of its employees. Nothing included in this agreement shall be construed as imposing any liability or duty on the Fund to persons, firms or corporations employed or engaged by NPD directly or as consultants or subcontractors.

#### **VIII. Consent to Jurisdiction/Forum Selection Clause**

The Center, the Fund and NPD agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the State and Federal courts located in the City of New York, State of New York. The aforementioned choice of venue is intended by the parties to be mandatory and not permissive in nature, thereby precluding the possibility of litigation between the parties with respect to or arising out of this Agreement in any jurisdiction other than that specified in this paragraph. Each party hereby waives any right it may have to assert the doctrine of forum non conveniens or similar doctrine or to object to venue with respect to any proceeding brought in

accordance with this paragraph, and stipulates that the State and Federal courts located in the City of New York, State of New York shall have in personam jurisdiction and venue over each of them for the purpose of litigating any dispute, controversy, or proceeding arising out of or related to this Agreement. Each party hereby authorizes and accepts service of process sufficient for personal jurisdiction in any action against it as contemplated by this paragraph by registered or certified mail, return receipt requested, postage prepaid, to its address for the giving of notices as set forth in this Agreement. Any final judgment rendered against a party in any action or proceeding shall be conclusive as to the subject of such final judgment and may be enforced in other jurisdictions in any manner provided by law.

#### **IX. Books and Records; Audits**

NPD will keep and maintain efficient, complete and separate books and records concerning any and all costs incurred in the performance of this Agreement. Such books and records shall be kept available for examination by an independent auditor at all reasonable times and places during the period of this Agreement and for six (6) years from the date of final payment. A state, local government or nonprofit organization that expends \$500,000 or more of total federal awards in a fiscal year is required to obtain a single audit conducted by an independent auditor in accordance with the Office of Management and Budget Circular A-133 and the Single Audit Act. If NPD has obtained an independent audit in accordance with the Single Audit Act, a copy of the most recent audit must be provided to the Fund upon execution of this Agreement. Organizations that expend less than \$500,000 in a year are exempt but records must be available for review or audit. If NPD is exempt from the requirements of the Single Audit Act, upon execution of this Agreement NPD must submit a letter to the Fund stating that the A-133 requirements do not apply to NPD and the basis of the exemption.

#### **X. Insurance**

NPD warrants and represents that it is, and will be continuously during the term of this Agreement, sufficiently self-insured for claims and liabilities including personal and property damage that may arise from or in connection with the performance of the work hereunder by NPD, its agents, representatives, employees, volunteers, or subcontractors.

#### **XI. Indemnification**

NPD shall be solely responsible for all injuries or death to its agents, servants, or employees, or to any other person, or damage to any property sustained in connection with the rendering of Services pursuant to this Agreement, resulting from any act or omission or commission or error in judgment of any of its officers, trustees, employees, agents, servants, or independent contractors, and shall indemnify, defend, and hold harmless the Fund from liability upon any and all claims and actions for damages on account of such injuries or death to any such person or damages to property on account of ~~any~~ neglect, fault or default of NPD, its officers, trustees, employees, agents, servants, or



independent contractors. NPD shall be solely responsible for the safety and protection of all of its employees whether due to the negligence, fault or default of NPD or not. NPD agrees that it is fully responsible to the Fund for the acts and omissions of its subcontractors, and of persons employed by such subcontractors, in the same way as NPD is fully responsible for the acts and omissions of persons directly employed by NPD.

## **XII. Confidentiality**

A. NPD agrees to safeguard the confidentiality of all material considered confidential in accordance with the provisions of all applicable state and federal laws and regulations.

B. NPD shall educate, monitor and be responsible for its officials, employees, subcontractors, agents and volunteers that are providing services for NPD pursuant to this agreement concerning these confidentiality requirements. Any breach of the confidentiality requirements set forth in this Section by NPD or by its officials, employees, subcontractors, agents or volunteers may be cause for the immediate termination of this Agreement

C. The Fund agrees to safeguard the confidentiality of all material considered confidential in accordance with the provisions of all applicable state and federal laws and regulations.

## **XIII. Required Assurances**

NPD acknowledges that the work contemplated by this Agreement is pursuant to a Department of Justice Grant awarded to the Fund by the United States Government. Accordingly, by signing this Agreement, NPD agrees to comply with, and agrees to include appropriate provisions in any subagreement or subcontract entered into under this Agreement, to ensure that it complies with all applicable United States Government requirements, including the following:


1. DOJ Regulations: U.S. Department of Justice ("DOJ") regulations entitled "*Uniform Administrative Requirements For Grants And Agreements (Including Subawards) With Institutions Of Higher Education, Hospitals And Other Non-Profit Organizations*" located at 28 C.F.R Part 70;
2. Notice of Grant Award and Appropriations Acts: The authorizing program legislation as set forth in the Notice of Grant Award, as well as other applicable statutory requirements, such as those in appropriations acts applicable to Department of Justice-funded sponsored projects; and
3. Further Assurances: The Federal requirements are located in Appendix C to this Agreement, and incorporated by reference into this Agreement. Appendix C-1, C-2 and C-3 must be signed by an authorized representative of NPD.

If the terms and conditions of this Agreement, as set forth in this letter, are acceptable to you, please sign two original Agreements and sign three Assurances (Appendix C-1, C-2 & C-3) forms. Return one signed original Agreement, three signed Assurances forms and a copy of your latest A-133 audit or a letter stating that the A-133 requirements do not apply to NPD and the basis of the exemption, to my attention at the Center for Court Innovation, 520 Eighth Avenue, 18th Floor, New York, NY 10018.

Sincerely,

Amy Levitt  
Director of Finance  
Center for Court Innovation

**Agreed To:**  
Newburgh Police Department

  
\_\_\_\_\_  
~~Ernie Paolilli~~ Michael Ferrara  
Chief of Police

2/22/11  
\_\_\_\_\_  
Date

14-6002329  
\_\_\_\_\_  
Tax ID #

**Approved By:**  
Fund for the City of New York,  
Center for Court Innovation

\_\_\_\_\_  
Greg Berman,  
Director

\_\_\_\_\_  
Date

APPENDIX B

City of Newburgh Police Department

**BUDGET**

Personnel		
Detective	OT \$54 x 185.5 hrs	\$10,017
Patrol Officer	OT \$48 x 208 hrs	\$9,984
<b>Total Personnel</b>		<b>\$20,001</b>
 Vehicle Rental		 \$14,400
 <b>TOTAL</b>		 <b>\$34,401</b>

RESOLUTION NO.: 51 - 2011

OF

MARCH 14, 2011

A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO ENTER INTO A MEMORANDUM OF AGREEMENT WITH NEW YORK STATE  
FOR THE 1033 FEDERAL EXCESS PROPERTY PROGRAM  
TO OBTAIN SURPLUS POLICE EQUIPMENT  
FORMERLY BELONGING TO THE FEDERAL DEPARTMENT OF DEFENSE

WHEREAS, the National Defense Authorization Act authorizes the Secretary of Defense to transfer excess (sometimes called surplus or personal property) Department of Defense property to state and local law enforcement agencies; and

WHEREAS, the City of Newburgh Police Department wishes to enter into a Memorandum of Agreement ("MOA") with the New York State 1033 Program Coordinator appointed by the Governor of the State of New York to act on behalf of the State of New York and the Division of Criminal Justice Services, an Executive Agency of the State of New York regarding surplus police equipment; and

WHEREAS, it is deemed to be in the best interests of the City of Newburgh to enter into a MOA for surplus police equipment;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into a Memorandum of Agreement with New York State for the 1033 Federal Excess Property Program to obtain surplus police equipment formerly belonging to the Federal Department of Defense.



State of New York  
Division of Criminal Justice Services  
Office of Public Safety  
4 Tower Place  
Albany, New York 12203



## New York State 1033 Federal Excess Property Program

### Memorandum of Agreement

New York State  
and

Law Enforcement Agency: City of Newburgh Police Dept

#### PURPOSE

This Memorandum of Agreement (MOA) and the Plan of Operation is entered into between the New York State 1033 Program Coordinator appointed by the Governor of the State of New York to act on behalf of the State of New York and the Division of Criminal Justice Services, an Executive Agency of the State of New York, and the City of Newburgh Police Department, a New York Law Enforcement Agency (NYLEA) to set forth the terms and conditions which will be binding on the parties with respect to Department of Defense (DOD) excess property (sometimes called surplus property or personal property) which is transferred pursuant to 10 USC § 2576a, to promote the efficient and expeditious transfer of the property and to ensure accountability of same, to establish the authority of the New York State Point of Contact (s) (SPOC), and to provide for the return, subsequent transfer or destruction of excess property which has been transferred to the NYLEA.

#### AUTHORITY

The Secretary of Defense is authorized by 10 USC § 2576a to transfer to Federal and State agencies and local law enforcement agencies personal property that is excess to the needs of the DOD and that the Secretary determines is suitable to be used by such agencies in law enforcement activities, with emphasis on counter-drug/counter-terrorism activities, under such terms prescribed by the Secretary.

#### ORGANIZATIONAL AUTHORITY

The Governor of New York has designated the Director of the Office of Public Safety, Division of Criminal Justice Services, as the New York State Coordinator (SC) to implement this program statewide. The SC and designated State Point of Contact(s) (SPOC's), have operational authority for the daily conduct and management, oversight and policy of this program.

#### TERMS AND CONDITIONS

The DOD through the DLA has final authority to determine the type, quantity, and location of excess DOD personal property suitable for law enforcement activities, if any, which will be transferred to the State. This agreement creates no entitlement in the State to receive excess DOD personal property. Property available under this agreement is for the current use of authorized program participants; it will not be requested nor issued for speculative use/possible future use. NYLEAs are required to utilize property within one year or schedule its return to the nearest Defense Reutilization Marketing Office (DRMO). Property will not be obtained for the purpose of sale, lease, rent, exchange, barter, to secure a loan, or to otherwise supplement normal

Law Enforcement Agency (LEA) or State/local governmental entities budgets. All requests for property will be based on bona fide law enforcement requirements.

### **NYLEA ELIGIBILITY CRITERIA**

Eligibility requirements for a New York Law Enforcement Agency (NYLEA) to participate in the 1033 Program are detailed in the State Plan of Operation. The State Coordinator shall provide all NYLEAs access to the State Plan of Operation, all of the provisions of which are incorporated into this agreement as though set forth in their entirety herein. All requests for, and use of, excess property shall comport with the terms and conditions set forth in the State Plan of Operation. The State Coordinator and LESO shall determine which Law Enforcement Agencies in New York State are eligible to participate in the 1033 Program.

Any Law Enforcement Agency (NYLEA) that desires to enroll and participate in the 1033 Program must have a Chief Executive Officer (CEO) who is accountable for this Program. The CEO must comply, and must have the authority to ensure that those under their command fully comply with the New York State /LEA Memorandum of Agreement (MOA) and the State Plan of Operation, and with all applicable Federal and State laws, directives and policies related to the 1033 Program. The CEO must have the authority to enter into the MOA and must provide evidence of that authority satisfactory to the State Coordinator.

By executing this agreement and agreeing to accept excess property under this Program, the NYLEA pledges that it agrees to comply with applicable provisions of the following national policies prohibiting discrimination:

- a. On the basis of race, color, or national origin, in Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) as implemented by DOD regulations in 32 CFR part 195.
- b. On the basis of age, in the Age Discrimination Act of 1975 (42 USC 6101, et seq.) as implemented by Department of Health and Human Services regulations in 45 CFR part 90.
- c. On the basis of handicap, in Section 504 of the Rehabilitation Act of 1973, P.L. 93-112, as amended by the Rehabilitation Act Amendments of 1974, P.L. 93-516 (29 U.S.C. 794), as implemented by Department of Justice regulations in 28 C.F.R. Part 41 and DOD regulations at 32 C.F.R. Part 56.

### **SCREENING**

The NYLEA CEO must appoint a sworn compensated police officer as the Property Accountability Officer (PAO). The CEO and PAO are responsible for the security, accountability and record keeping of all property received through the 1208/1033 Programs and are subject to audits by Federal and State authorities. If the NYLEA will be requesting weapons a full-time sworn compensated Police Officer must be appointed as the Weapons Point of Contact (WPOC). The CEO, PAO and WPOC are responsible for the security, accountability, return and record keeping of all weapons and weapon accessories received through the 1033 Programs.

If applicable, and with the express written approval in advance from the State Point of Contact which approval may be revoked by the State Point of Contact at any time, the CEO must appoint an Aircraft/Aircraft Parts Accountability Point of Contact (APOC). The APOC can be a sworn, full-time compensated police officer or an employee of the agency with expertise in the field of

aviation who meets the same criteria with respect to background investigations in connection with employment as is required for sworn compensated police officers in the NYLEA. The CEO,

PAO and APOC are responsible for the security, accountability and record keeping of all aircraft and aircraft parts received through the 1208/1033 Programs.

Note: The PAO can also be identified as the WPOC and APOC.

The CEO must appoint a minimum of 2 (two) with a maximum of 4 (four) "Screeners" who will be authorized to "screen" or search for property either physically at a Defense Reutilization and Marketing Office (DRMO), or electronically utilizing the Defense Reutilization and Marketing Service (DRMS) website. Screeners must be sworn compensated police officers.

### **REQUESTING PROPERTY**

The State Coordinator reserves the right to limit the number and types of items ordered to ensure equitable distribution of property statewide. NYLEAs can "screen" or search for property electronically through the DRMS LESO Application or manually by visiting a DRMO. NYLEAs screening electronically should verify property availability telephonically with the holding DRMO and to obtain any additional information on the desired property.

### **UTILIZATION OF PROPERTY**

Property received through the 1033 Program must be placed into use within 1 year of receipt and utilized for a minimum of 1 year, unless the condition renders it unusable, in which case the NYLEA must contact the State Point of Contact for instructions. If property is not placed into use within 1 year of receipt, it must be transferred to another authorized agency, or returned to a DRMO. Property returns/turn-ins must be coordinated through the Office of the State Coordinator and LESO. The DOD has authorized the transfer and use of excess Federal property to Law Enforcement Agencies (LEA) and as such reserves the right to recall any and all property issued through the 1208/1033 Programs. As stipulated in Federal regulation, title may be conditionally granted to the NYLEA, however prior written approval must be obtained by the NYLEA. Property will not be transferred, disposed of or returned to a DRMO without prior State Coordinator and LESO approval. It is important that the NYLEA DOES NOT DISPOSE, TRANSFER OR RETURN ANY PROPERTY WITHOUT STATE COORDINATOR AND LESO APPROVAL.

### **USE OF PROPERTY BY NON-LAW ENFORCEMENT OPERATIONS**

Excess DOD personal property cannot be used for the needs of non-law enforcement operations of any State Agency, County, City, Town or Village or other government jurisdiction in New York State. Under no circumstances will property be used, loaned or transferred, even temporarily, to law enforcement officers or civilians or other persons or to other governmental units for their own private non-official use at any time.

### **SECURITY OF PROPERTY**

It is the sole responsibility of the NYLEA to safeguard all excess Department of Defense personal property received through the 1208/1033 Programs.

## ACCOUNTABILITY OF PROPERTY

All excess DOD personal property must be managed utilizing secure and controlled property accounting records that are concise, accurate, and able to provide timely and relevant information. Records must be maintained until the property is turned in, disposed of, or

transferred in accordance with the DLA Record Management Procedures and Records (DLA Directive 5025.30). Records must provide an audit trail for all property from receipt ("cradle"), to transfer, turn-in, or disposal ("grave"), and arranged in a manner that facilitates easy review, audit and accountability of property. **Because the NYLEA is accountable for all property received under this Program, it is important that the NYLEA DOES NOT DISPOSE OF ANY PROPERTY WITHOUT STATE COORDINATOR APPROVAL. ANY PROCEEDS RECEIVED BY THE NYLEA IN THE COURSE OF DISPOSING OF PROPERTY MUST BE USED ONLY FOR NYLEA PURPOSES.**

## TURN IN OF PROPERTY

NYLEAs must coordinate all turn in requests through the State Coordinator's (SC) Office and obtain prior approval of the State Coordinator and LESO before any property is turned in.

## TRANSFER OF PROPERTY

NYLEAs must coordinate the transfer of property through the State Coordinator's (SC) Office. Approval must be obtained from both the State Coordinator and LESO before any property is transferred.

## DISPOSAL OF PROPERTY

NYLEAs must obtain prior approval of the State Coordinator and LESO before any property is disposed of. Approval must be obtained from both the State Coordinator and LESO before any property received or obtained by the NYLEA under any DLA federal excess property program including but not limited to 1208 and 1033 Program property is be disposed of. Certain types of property have various demilitarization codes assigned to them and NYLEA's must comply with the disposal requirements for such codes. All property must be disposed of in accordance with applicable federal, state and local laws and environmental regulations but only after approval has been received from the State Coordinator and LESO.

## REPORTING LOST, STOLEN, DAMAGED OR DESTROYED PROPERTY

All excess DOD personal property lost, stolen, illegally sold, damaged, manipulated, illegally diverted, or destroyed must be reported to the State Coordinator and as outlined in the State Plan of Operation.

The SC is required to notify the LESO of theft, suspected theft, illegal diversion, or manipulation of excess DOD personal property by a NYLEA for referral to the appropriate federal criminal investigative agency.

## LESO AND STATE COMPLIANCE REVIEWS

LESO will conduct a Program Compliance Review (PCR) of New York State's 1033 Program every two (2) years and may also at that time inspect individual NYLEAs. LESO also requires



the State Coordinator to conduct annual on-site accountability inspections of selected NYLEAs to inventory property and review records.

The State Coordinator will review Reconciliation Reports through the Law Enforcement Equipment Database System (LEEDS) and conduct annual accountability reviews of NYLEAs. This review will include inquiries to determine compliance with the State Plan of Operation and the MOA between the State and the NYLEA. The State Coordinator may also conduct such additional accountability reviews of NYLEAs as appropriate in the sole discretion of the State Coordinator.

## **TRANSPORTATION OF PROPERTY**

It is the responsibility of the NYLEA to transport requested property from the DRMOs to their location. Additionally, transportation costs associated with the turn-in of property to a DRMO are the responsibility of the agency. DLA and New York State will not fund the transportation costs associated with property received under this Program.

## **TERMINATION**

This MOA may be terminated by either party, provided the other party receives sixty calendar days (60) notice, in writing, or as otherwise stipulated by Public Law. If the NYLEA determines that they wish to withdraw from the 1033 Program, the disposition of the equipment acquired through the Program and currently held by the NYLEA will be determined by LESO and the State Coordinator. A final equipment disposition plan will be prepared and sent to the NYLEA. The NYLEA will have ninety (90) calendar days to comply with the plan and any and all disposition costs will be borne by then LEA. Obligations of the LEA with respect to return of and accounting for property and indemnification shall survive termination of this MOA.

The undersigned State Coordinator and NYLEA CEO hereby agrees to comply with all provisions set forth herein and acknowledges that any violation of the terms and conditions of this MOA and the State Plan of Operation may be grounds for immediate termination and possible legal consequences, to include pursuit of criminal prosecution if so warranted.

## **NOTICES**

The Defense Logistics Agency and the State of New York may, from time to time, propose modifications or amendments to the provisions of this MOA. In such cases, reasonable opportunity will, insofar as practicable, be afforded the State Coordinator to conform changes affecting their operations.

## **CONFLICTS**

In the event of a conflict between the terms of this MOA executed between the NYLEA and the State of New York and the New York State Plan of Operation for the 1033 Program, the provisions of the MOA executed between the NYLEA and the State of New York shall be controlling.

## **RELEASE OF LIABILITY**

The NYLEA accepts the transfer of property received under this MOA "as is" with no warranties of fitness for any particular purpose. No representations with respect to property, history thereof,

maintenance, condition, prior use or safety have been made or can be relied on by the NYLEA. The NYLEA acknowledges that there are hazards associated with the use of this property which can result in damage to property and/or serious injury or death and that hidden defects may render the property unsafe or unfit for use until thorough testing has occurred.

The recipient agrees that it **IS NOT** the responsibility of the department of Defense, the Division of Criminal Justice Services, the State Coordinator, the designated Point of Contact(s) or the State of New York to provide appropriate training, or ensure that federal, state or local training, maintenance or physical security standards are maintained, to any person who may use the property.

To the extent permitted by law, the NYLEA shall indemnify and hold the New York State Division of Criminal Justice Services, the State of New York, its officers, employees and the people of the State of New York harmless from any and all actions, claims, debts, demands, judgments, liabilities, cost, and any incidental, consequential, compensatory, punitive, nominal or any other damages of whatever kind and attorney's fees arising out of or which may arise out of, be claimed on account of, or in any manner predicated upon loss of or damage to property and injuries, illness, disabilities or death of any and all persons whatsoever, including members of the general public, or to the property of any legal or political entity including states, local and interstate bodies, in any manner caused by or contributed to by the Law Enforcement Agency, its agents, servants or employees arising out of or in connection with the use of or failure to secure property received under this program whether caused by the negligence of employees of the LEA acting in the course and scope of their employment or otherwise. The NYLEA agrees and hereby certifies that it will maintain adequate insurance to cover damages or injuries to persons or property relating to the use or possession of the property received under this MOA. Proof of such insurance coverage must be attached to this MOA at the time of enrollment.

The Law Enforcement Agency agrees to use any property it acquires or possesses under this 1033 Program only in a manner that is consistent with the provisions of the 1033 Program and further agrees that it shall not sell, scrap, trade or otherwise dispose of any property received or acquired until authorized by the New York State Division of Criminal Justice Services and LESO in writing and in advance of the proposed action. The Law Enforcement Agency agrees to maintain an approved property accountability officer for this Program. The 1033 Program requires the State Coordinator to conduct scheduled and unscheduled audits and inspections of property received, returned or disposed of under this 1033 Program and the Law Enforcement Agency agrees to cooperate in such efforts when requested by the State of New York including providing access to auditors acting on behalf of the State Coordinator. Remedial, recovery or compensation imposed by the Defense Logistics Agency in the event that property determined by the State Coordinator to be missing, lost or which otherwise cannot be located as a result of audit activity, or the result of any investigation by the State Coordinator, shall be the responsibility of the Law Enforcement Agency, and the Law Enforcement Agency shall indemnify the State of New York for any damages assessed against the State arising out of such a claim.


The NYLEA acknowledges that it has been informed that, upon disposal, such disposal may produce hazardous waste. Transportation, storage, and disposal of such waste are the sole responsibility of the NYLEA. The NYLEA also acknowledges that it is solely responsible for the proper disposal of, and any and all costs associated with, any element or expendable subcomponent in accordance with environmental protection laws and regulations.

## ATTESTATION

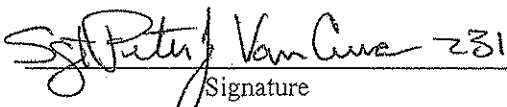
As Chief Executive Officer of the Law Enforcement Agency named above I certify that I have received and read the New York State Plan of Operation and agree to comply with the terms and conditions as set forth in the State Plan of Operation and the Memorandum of Agreement including provisions with respect to insurance requirements and that I have the authority to represent the Law Enforcement Agency named above in this matter and that I am acting on behalf of the Law Enforcement Agency named above in executing this agreement. I certify that in the event that the Law Enforcement Agency named above is an operating unit of a Political Subdivision of the State of New York that I have the authority to act on, bind and commit the

Political Subdivision to the terms and conditions hereof or in the alternative in addition to my own signature, I have secured the signature of the appropriate officer or official of the political subdivision who has such authority.

ATTACH PROOF OF INSURANCE COVERAGE TO THIS PAGE.

  
Agency Chief Executive Officer (Signature)  
CEO Printed Name: Michael Ferrara  
Title: Chief of Police  
Agency: City of Newburgh Police Department  
Address: 55 Broadway  
City/State/Zip: Newburgh NY 12550  
Date (MM/DD/YYYY): 02/09/2011

Peter Vancura (Seargant)  
Printed Name and Title  
Date (MM/DD/YYYY): 02/09/2011

  
Signature


Nicholas Cardinale (Police Officer)  
Printed Name and Title  
Date (MM/DD/YYYY): 02/09/2011

  
Signature

Frank Labrada (Seargant)  
Printed Name and Title  
Date (MM/DD/YYYY): 02/09/2011

  
Signature

William Lahar III (Police Officer)  
Printed Name and Title  
Date (MM/DD/YYYY): 02/09/2011

  
Signature

\_\_\_\_\_  
Printed Name and Title  
Date (MM/DD/YYYY): \_\_\_\_\_

\_\_\_\_\_  
Signature

RESOLUTION NO.: 52 - 2011

OF

MARCH 14, 2011

A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO ACCEPT DONATIONS IN SUPPORT OF THE  
CITY OF NEWBURGH'S MEMORIAL DAY EVENT  
AND FURTHER ESTABLISHING A TRUST-IN-AGENCY ACCOUNT  
FOR SUCH DONATIONS

WHEREAS, various businesses, firms and individuals have made and are willing to make contributions of money and in-kind assistance to support the Memorial Day Event; and

WHEREAS, this Council deems it to be in the best interests of the City of Newburgh to accept such donations;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to accept said donations for the Memorial Day Parade with the appreciation and thanks of the City of Newburgh on behalf of its children, families and citizens, for their support and sponsorship of this event; and

BE IT FURTHER RESOLVED, that the City Council of the City of Newburgh hereby establishes a Trust-in-Agency Account: TE.0000.0690.0176 for such donations which will be used for the Memorial Day Event.

RESOLUTION NO.: 53 - 2011

OF

MARCH 14, 2011

A RESOLUTION AMENDING RESOLUTION NO: 264-2010,  
THE AMENDED 2011 BUDGET FOR THE CITY OF NEWBURGH, NEW YORK  
TO ESTABLISH AN ANIMAL CONTROL FUND FOR DOG LICENSING

BE IT RESOLVED, that Resolution No: 264-2010, the 2011 Amended Budget of the City of Newburgh, is hereby amended as follows:

Revenue:

A.0000.1551	Dog Control Fees	\$200.00
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Expenses:

A.3511	Animal Control	
.0448	Other Services	\$200.00